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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,864

10/19/2005

Serge Le Cocq

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01/31/2008

COHEN, PONTANI, LIEBERMAN & PAVANE

551 FIFTH AVENUE

SUITE 1210

NEW YORK, NY 10176

EXAMINER

BARRY, ERIN P

ART UNIT

PAPER NUMBER

4111

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,864	<b>Applicant(s)</b> LE COCQ ET AL.	
	<b>Examiner</b> ERIN P. BARRY	<b>Art Unit</b> 4111	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 10-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/17/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1-9 in the reply filed on 12/27/2007 is acknowledged.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is indefinite, because it is unclear what is intended by "a cover the shape of which may be more or less complex" (emphasis added). Regarding claim 6, it states that the *said open jet opens...*, however, there is no mention of an open jet in the dependent claim 2. For the purpose of examination, claim 6 will depend on claim 5, which does state an *open jet*.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder et al. (4,673,814).

Regarding claims 1 and 9, Schroeder et al. has a metallic cylindrical shaped vessel with circular top for holding radioactive waste (abstract) with a vessel 1 with walls and a top open end where a metallic cover 4 is docked on a seating surface/docking 3 (col. 3 lines 1-8; figure 1). The welding of the cover to the container takes place in a hostile environment since the material being sealed is radioactive. Schroeder et al. states the use of a remote controlled fillet welding operation for sealing radioactive material in a container (column 3 lines 52-60). While it is not stated that the weld is continuous, it would have been obvious to one in the art to have a continuous weld as such is an art recognized effective way to provide tight seal to thereby ensure that the container is "safely sealed with a high impermeability to gas" and prevent any leakage (col. 3 lines 53-60).

Regarding claim 2, Schroeder et al. has a seating surface/docking guide 3 on the inside of the vessel 1.

Regarding claim 3, Schroeder et al. states that a radial force is exerted on the vessel wall while performing a fillet weld (column 4 lines 51-63). While this doesn't specifically state that it is welded without spot welding, it would have been obvious at the time of the invention to not have a spot welding to ensure a continuous seal to create a leak proof container.

Regarding claim 7, While Schroeder et al. does not mention the position of the vessel during welding, it would have been obvious at the time of the invention to have the vessel in the vertical position to prevent the radioactive contents in the container from leaching out.

Regarding claim 8, Schroeder et al. states that the cover is placed on the seating surface/docking guide 3. Schroeder et al. does mention a remotely-controlled programmed robot and automatic welding equipment which would allow the welding head to be rotated around the said container at the level of the ends of the walls maintained in contact.

6. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder et al. (4,673,814) and applied to claim 1 above, and further in view of Gordon (4,831,233)

Regarding claim 4 and 5, Schroeder et al. states the use of gas-shielded arc welding to weld the cover onto the vessel. Schroeder et al. doesn't specifically state plasma jet welding. However, Gordon does state the use of tungsten inert gas welding as a remote controlled welding operation (column 1 lines 12-16). It is commonly known in the art that tungsten inert gas welding (TIG) is a form of plasma jet welding. While Gordon doesn't specifically state that no filler metal was used, it is known in the art that inert gas welding does not require filler metal. It would have been obvious at the time of the invention to use tungsten inert gas, as stated by Gordon, for the weld on the vessel because an inert gas such as tungsten for welding because it provides greater control

over the weld and has a strong, high quality weld needed to prevent leakage between the cover and body.

***Allowable Subject Matter***

7. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

While prior art was found with a degassing vent that could be blanked off after welding, a location where the open jet opens into a groove with a degassing chimney that is machined in a docking guide could not be found.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIN P. BARRY whose telephone number is (571)270-3634. The examiner can normally be reached on Monday through Thursday from 8am-5pm Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Yao can be reached on (571) 272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4111

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EPB

1/24/2008

/Sam Chuan C. Yao/

Supervisory Patent Examiner, Art Unit 4111